

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOHN E. MINES, JR.,

Plaintiff,

V.

MICHAEL OBENLAND,

**Defendant.**

NO: 16-CV-0429-TOR (MKD)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION  
TO DISMISS HABEAS PETITION**

BEFORE THE COURT is Petitioner John E. Mines, Jr.'s petition for writ of

habeas corpus pursuant to 28 U.S.C. § 2254 (ECF Nos. 1; 7), Respondent Michael

Obenland's Response (ECF No. 13), which the Court has construed as a motion to

dismiss, and the parties' supplemental, post-stay briefing (ECF Nos. 26; 27; 28).

Petitioner, a prisoner confined at the Monroe Correctional Complex, Monroe, WA,

filed the Petition *pro se*, but is now represented by attorney Michael C. Kahrs.

1       The matter was submitted to the Honorable Magistrate Judge Mary K.  
2 Dimke, who issued a Report and Recommendation (ECF No. 29). The R&R  
3 recommended denying the habeas petition as barred by procedural default and  
4 allowed the parties to submit written objections by December 13, 2017. Petitioner  
5 filed an objection (ECF No. 31) reiterating previously made arguments (*e.g.*  
6 whether the state court properly denied review on procedural grounds) that fail to  
7 address the grounds upon which the R&R was decided (*i.e.* the procedural default  
8 doctrine). After reviewing all filings and liberally construing Petitioner's  
9 submissions in the light most favorable to him, the Court adopts the Report and  
10 Recommendation (ECF No. 29) and **DENIES** Petitioner's Writ.

11 **ACCORDINGLY, IT IS HEREBY ORDERED:**

12       1. The Court **ADOPTS** the Report and Recommendation (ECF No. 29) in  
13 full.

14       2. Petitioner John E. Mines, Jr.'s Petition for Writ of Habeas Corpus (ECF  
15 Nos. 1; 7) is **DENIED**.

16       3. A Certificate of Appealability is **DENIED**.

17       4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of  
18 this Order would not be taken in good faith and would lack any arguable  
19 basis in law or fact. Petitioner's *in forma pauperis* status is hereby  
20 **REVOKED**.

The District Court Executive is directed to enter this Order and Judgment accordingly, furnish copies to the parties, and **close** the file.

**DATED** December 15, 2017.



*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge